

§ 102.76

29 CFR Ch. I (7–1–15 Edition)

warranted but for the pendency of a petition under section 9(c) of the Act, which has been filed by any proper party within a reasonable time not to exceed 30 days from the commencement of picketing, the regional director shall suspend proceedings on the charge and shall proceed to investigate the petition under the expedited procedure provided below, pursuant to the first proviso to subparagraph (C) of section 8(b)(7) of the Act.

§ 102.76 Petition; who may file; where to file; contents.

When picketing of an employer has been conducted for an object proscribed by Section 8(b)(7) of the Act, a petition for the determination of a question concerning representation of the employees of such employer may be filed in accordance with the provisions of §§102.60 and 102.61, insofar as applicable, except that if a charge under §102.73 has been filed against the labor organization on whose behalf picketing has been conducted, the petition shall not be required to contain a statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9(a) of the Act; or that the union represents a substantial number of employees; or that the labor organization is currently recognized but desires certification under the Act; or that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative; or, if the petitioner is an employer, that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of the employees in the unit claimed to be appropriate.

[79 FR 74488, Dec. 15, 2014]

§ 102.77 Investigation of petition by regional director; directed election.

(a) Where a petition has been filed pursuant to §102.76 the regional director shall make an investigation of the matters and allegations set forth therein. Any party, and any individual or labor organization purporting to act as representative of the employees involved and any labor organization on whose behalf picketing has been con-

ducted as described in section 8(b)(7)(C) of the Act may present documentary and other evidence relating to the matters and allegations set forth in the petition.

(b) If after the investigation of such petition or any petition filed under subpart C of this part, and after the investigation of the charge filed pursuant to §102.73, it appears to the regional director that an expedited election under section 8(b)(7)(C) of the Act is warranted, and that the policies of the Act would be effectuated thereby, the regional director shall forthwith proceed to conduct an election by secret ballot of the employees in an appropriate unit, or make other disposition of the matter, except that in any case in which it appears to the regional director that the proceeding raises questions which cannot be decided without a hearing, the director may issue and cause to be served on the parties, individuals, and labor organizations involved a notice of hearing before a hearing officer at a time and place fixed therein. In this event, the method of conducting the hearing and the procedure following shall be governed insofar as applicable by §§102.63 through 102.68 inclusive.

[24 FR 9102, Nov. 7, 1959, as amended at 26 FR 3892, May 4, 1961; 76 FR 80188, Dec. 22, 2011; 79 FR 3494, Jan. 22, 2014; 79 FR 74488, Dec. 15, 2014]

§ 102.78 Election procedure; method of conducting balloting; postballoting procedure.

If no agreement such as that provided in §102.79 has been made, the regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements for the balloting. The method of conducting the balloting and the postballoting procedure shall be governed, insofar as applicable, by the provisions of §§102.69 and 102.70 except that the labor organization on whose behalf picketing has been conducted may not have its name removed from the ballot without the consent of the regional director and except that the regional director's rulings on any objections or challenged ballots shall be final unless the Board grants special permission to appeal from the regional